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CONCORD, N.H.

Mr. Alfred S. Cloues
State Treasurer
State House

Dear Mr. Cloues:

You have this date advised me of a suit in the Federal Court in which the United States is plaintiff, a certain state employee is defendant and in which you, in your capacity as State Treasurer, are named Trustee. You have inquired as to your duties in the circumstances.

Title 28, section 2405 of the U. S. Code confers upon the Federal Court jurisdiction in respect to garnishment co-extensive with that permitted by state law. That is to say, trustee process may be entertained in the Federal Court to the extent that the same is allowed in state courts by the law of the state. R. L. c. 412, s. 9 authorizes the garnishment of state officials or employees. In our view this authority may be exercised in the Federal Court.

In all respects, however, your action in response to the writ served upon you is governed by state law. This includes the matter set forth in R. L. c. 412, s. 21.

I have been in communication with Robert Branch, Esq., Assistant U. S. Attorney, who advises that the principal suit may soon be settled. In these circumstances he has suggested that it would be convenient if the funds withheld may be retained in your hands rather than being paid to the Clerk of the Federal Court.

Very truly yours,

Warren E. Waters
Deputy Attorney General

WEN:RM